

REMARKS

The Non-Final Office Action mailed May 29, 2008 and the references cited therein have been carefully considered. Claims 1-18 are now pending in the application. Claims 1, 4-6, 9-11, 13 and 15 are hereby amended and Claim 14 is hereby canceled. The amendments to Claim 1, 5 and 15 correspond to language contained in the specification and/or shown in the drawings. In particular, the amendments to Claims 1 and 15 correspond to language previously recited in canceled Claim 14. The amendments to Claims 4-6, 9-11 and 13 merely reworded existing claim language to conform with current U.S. practice. Thus, no new matter has been added by the amendments. It should be understood that the amendments to Claims 4-6, 9-11 and 13 are presented to clarify that which applicant regards as an aspect of the invention and are not introduced to overcome any prior art rejections or any teachings contained in the prior art. Applicants respectfully request entry of these amendments and specifically respond below to the issues raised in the subject Office Action.

Claim Rejections under 35 USC § 112, Second Paragraph

In the Office Action, Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In this regard, the Office Action indicates that the claim is generally narrative and indefinite for failing to conform with U.S. practice. Accordingly, Claim 5 has been reworded to structure the terms therein to clarify that which applicant regards as an aspect of the claimed invention. This

amendment was not introduced to overcome any prior art rejections or any teachings contained in the prior art. Thus, applicant respectfully requests entry of the above amendment to Claim 5 and that the rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

Claim Rejections under 35 USC § 102(b)

In the Office Action, claims 1, 8, 11, 13, 15 and 16 are rejected under French Patent No. 2542572 to Bompart et al. (**Bompart**). The Office Action contends that the Bompart patent discloses all the features of the rejected claims. Applicant respectfully traverses this rejection. The present invention as defined in the amended claims is clearly distinguished over Bompart.

Bompart teaches an aquaculture structure including sets of ballasts **4, 4'** that can be used to loosen the structure from the sea bottom by filling one or more of the ballasts **4, 4'** with air. In doing so, the structure tips over and thus releases the structure from the sea floor (as shown in Figures 4a-c). Thus, the Bompart structure easily tips in order to release it from the sea floor. Thus, Bompart does not teach “substantially cylindrical-shaped floating bodies having a longitudinal axis extending substantially vertically. The vertical floating bodies as recited in the claims enhance the stability of the overall structure. The added stability of the present invention provides distinct advantages during transport of the structure and/or during turbulent sea conditions. Bompart does not teach or reasonably suggest such stable vertical floating bodies as it would be contrary to and inhibit the tipping function described above. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on Bompart.

In the Office Action, Claims 1-5 and 6-8 are rejected under 35 U.S.C. §102(b) anticipated by U.S. Patent No. 4,266,509 to Gollott et al. (**Gollott**) The Office Action contends that the Gollott patent discloses all the features of the rejected claims. Applicant respectfully traverses this rejection.

Gollott discloses a nonbuoyant offshore shellfish habitat tethered to a floating buoy 52. In fact, other than the single floating buoy, the structure of Gollott is clearly indicated as being constructed from galvanized steel or other suitable non-corrosive metal structures (see column 4, lines 1-5). Thus, Gollott does not teach the at least two floating bodies and/or ballast means as recited in the claims, particularly Claims 1 and 15. What is more, there would be no reason to add additional floating buoys, as this would merely increase the cost and make retrieval of the suspension cables more difficult and time consuming. Additionally, Gollott does not teach that said floating bodies form an open frame, as further recited in Claim 1. Contrary to the assertion at page 3 of the Office Action, Gollott does not teach or reasonably suggest “floating bodies mutually connected by connecting means”. The Office Action fails to indicate what aspect of the frame as taught by Gollott could be considered “floating bodies and/or ballast means.” In fact, Gollott specifically teaches at column 4, lines 1-3 that the entire open frame enclosure 10, which includes frame members 22, 24, 26, 28, 30 and 32 and anchor eye 36 are constructed of galvanized steel or other suitable non-corrosive metal. Such a frame and structure could not be interpreted to be “floating bodies.” Additionally, applicant traverses the characterization in the Office Action at page 6 of the suspension cables 48 as disclosed in Gollott as being considered “floating bodies”. As shown in Figure 1 of Gollott, these suspension cables are clearly indicated as hanging by their own

Application Serial No. 10/546,927
Attorney Docket No. 294-227 PCT/US
Response to March 5, 2008
Non-Final Office Action

weight and not constructed of any material that floats. Further, Gollott specifically does not disclose that said floating bodies are substantially cylindrical shaped having a longitudinal axis extending substantially vertically, as now recited in the independent claims, particularly Claims 1 and 15. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on Gollott.

Claim Rejections under 35 USC § 103(a)

In the Office Action, Claims 9-11 and 13-18 are rejected under U.S.C. 103(a) as being unpatentable over Gollott. Applicant respectfully traverses this rejection for the same reasons set forth above. Additionally, there is no reason or suggestion to add any type of floating or buoyant structure to the frame enclosure 10. In fact, Gollott teaches away from such construction as indicated at column 4, lines 32-35 indicating that the open frame structure is intended to rest securely at the sea floor and be allowed to remain there for approximately fifteen days. What is more, there is certainly no teaching to provide such floating bodies with a longitudinal axis extending substantially vertically as now recited in the claims. Accordingly, there is no teaching or reason to alter Gollott as suggested in the Office Action to arrive at the claimed invention.

Applicant further submits that Claims 2-13 and 15-18, which ultimately depend from Claims 1 and 15 respectively are patentable over the art of record by virtue of their dependencies. Further, Applicant submits that Claims 2-13 and 15-18 define additional patentable subject matter in their own right. Therefore, it is respectfully submitted that Claims 2-13 and 15-18 also are in condition for allowance.

Application Serial No. 10/546,927
Attorney Docket No. 294-227 PCT/US
Response to March 5, 2008
Non-Final Office Action

Conclusion

Entry of the amendments herein and favorable consideration of Claims 1-13 and 15-18 are hereby solicited. In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested.

If the Examiner has any questions or suggestions to expedite allowance of this application, he is cordially invited to contact Applicant's attorney at the telephone number provided.

Respectfully submitted,

/tony a. gayoso/

Tony A. Gayoso

Registration No.: 37,331

Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791-4407
(516) 822-3550
TAG:lg
305907_1.DOC